

# People With Disabilities in the Federal Government

## AN EMPLOYMENT GUIDE



United States  
Office of Personnel  
Management

Employment  
Service

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ES DO-05  
October 1999

This guide is intended to help Federal employers and human resource personnel understand issues and programs aimed at improving the employment of people with disabilities. It is not intended to provide legal assistance, directives, nor interpretation of laws and regulations regarding the employment of people with disabilities in the Federal government, and cannot substitute for the independent judgment of legal counsel. Readers interested in getting legal help with a particular question or problem should consult their agency legal counsel.

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## INTRODUCTION

The Federal Government must strive to create and maintain a sound, diverse, and cooperative work environment. Equal opportunity in employment for all people, regardless of race, color, sex, age, religion, national origin, or disability should be the common goal across government. However, persons with disabilities are often overlooked as a source of employable talent.

On March 13, 1998, President Clinton addressed the underemployment of people with disabilities by signing Executive Order 13078 establishing the Presidential Task Force on Employment of Adults with Disabilities. The Task Force was charged with creating a coordinated and aggressive national policy to bring working-age individuals with disabilities into gainful employment at a rate approaching that of the general adult population.

This guide and its companion piece, *“Accessing Opportunity: The Plan for Employment of People with Disabilities in the Federal Government,”* were developed in support of the Task Force’s efforts and recommendations. The purpose of this guide is to provide guidance, information, and references to aid Federal employers in their efforts to hire and advance employees with disabilities.

## LEGAL FRAMEWORK

There are several laws which support and encourage the employment, retention, and advancement of people with disabilities.

1) **Section 501 of the Rehabilitation Act of 1973** prohibits discrimination on the basis of disability in Federal employment and requires the Federal government to engage in affirmative action for people with disabilities.<sup>1</sup> The law:

- Requires Federal employers not to discriminate against qualified job applicants or employees with disabilities. Persons with disabilities should be employed in all grade levels and occupational series commensurate with their qualifications. Federal employers should ensure that their policies do not unnecessarily exclude or limit persons with disabilities because of a job's structure or because of architectural, transportation, communication, procedural, or attitudinal barriers.
- Requires employers to make "reasonable accommodations" to applicants and employees with disabilities. Such accommodations may involve, for example, restructuring the job, reassignment, modifying work schedules, adjusting or modifying examinations, providing readers or interpreters, and acquiring or modifying equipment and/or facilities (including the use of adaptive technology such as voice recognition software).
- Prohibits selection criteria and standards which tend to screen out people with disabilities, unless such procedures have been determined through a job analysis to be job-related and consistent with business necessity, and an appropriate individualized assessment indicates that the job applicant cannot perform the essential functions of the job, with or without reasonable accommodation.
- Requires Federal agencies to develop affirmative action programs for hiring, placement, and advancement of persons with disabilities. Affirmative action must be an integral part of ongoing agency personnel management programs.

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<sup>1</sup> Section 501 was amended by the Rehabilitation Act Amendments of 1992 to apply the ADA's employment standards to all non-affirmative action employment discrimination claims filed by Federal applicants or employees. 29 U.S.C. § 791(g).

- 2) **Section 508 of the Rehabilitation Act of 1973, as amended** requires Federal agencies to procure, use, maintain, and develop only accessible electronic and information technology, unless doing so imposes an undue burden. National security systems are exempt. Federal agencies will be required to comply with standards promulgated by the Architectural and Transportation Barriers Compliance Board (the Access Board) that take effect on August 7, 2000, when they will become part of the Federal Acquisition Regulation (FAR). Agencies must biannually evaluate their compliance with Section 508 and must report the results of these self-evaluations to the Attorney General.
- 3) **The Vietnam Era Veterans' Readjustment Assistance Act of 1974.** In furtherance of the policy of promoting "the maximum of employment and job advancement opportunities within the Federal Government for disabled veterans and certain veterans of the Vietnam era and of the post-Vietnam era who are qualified for such employment and advancement," this act placed into law the provisions of the executive order that authorized the noncompetitive appointment of Vietnam era veterans under Veterans' Readjustment Appointment (VRA). The act also ensures that all veterans are considered for employment under merit system rules and requires a separate affirmative action plan for the hiring, placement, and advancement of disabled veterans. Please note, however, that this law does not provide any preferences to disabled veterans or to veterans of the Vietnam era.
- 4) **The Civil Service Reform Act of 1978** requires "fair and equitable" treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or disabling condition, and with proper regard for privacy and constitutional rights.
- 5) **The Americans with Disabilities Act (ADA) of 1990** covers employers in the private sector and State and local governments. The substantive employment standards of the ADA which are applicable to the Federal government through the Rehabilitation Act can be found at 42 U.S.C. §§ 12111 *et. seq.* and 42 U.S.C. §§ 12201-204 and 12210.
- 6) **The Veterans Education and Employment Program Amendments of 1991** require expanded job opportunities for veterans and disabled veterans through the Veterans Readjustment Appointment (VRA) Authority.
- 7) **The Architectural Barriers Act**, enforced by the Access Board, requires that buildings and facilities be accessible to people with disabilities if they were constructed



or altered by or on behalf of the Federal government or with certain Federal funds, or leased for occupancy by Federal agencies, after 1968. When individuals with disabilities are unable to use a building because there are no accessible parking spaces, no curb ramps, no ramps at the entrance, no accessible rest rooms, no accessible drinking fountains, no raised lettering on signs, or other barriers exist, they may file a complaint with the Access Board.

8) **The Pregnancy Discrimination Act** amended Title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy, childbirth, or related medical conditions. This amendment requires that employers treat pregnancy and related conditions as any other short-term disability.

9) **Title 5, United States Code, Sections 3312 and 3318** require that any disqualification, non-selection, or passover of a veterans' preference eligible applicant for medical reasons must be approved by the Office of Personnel Management before the position can be filled. This includes an agency medical disqualification of a 30 percent or more disabled veteran for assignment to another position in a reduction in force. A non-preference eligible disqualified for medical reasons also has a right to a higher level of review pursuant to OPM regulations set forth in 5 CFR, Section 339.306.

10) **The Family and Medical Leave Act of 1993**(5 U.S.C. § 6382) requires Federal agencies and departments to allow employees to take up to twelve weeks of leave without pay, provided that the employee or a member of his or her immediate family (spouse, son, daughter, or parent) has a serious health condition and the employee meets several other statutory criteria. The leave may be taken intermittently or on a reduced leave schedule when medically necessary. Agencies may require the employee to transfer temporarily to another position under certain circumstances.

## **ROLES AND RESPONSIBILITIES**

The following Federal and State entities have responsibilities concerning the employment of people with disabilities:

### **Equal Employment Opportunity Commission (EEOC)**

The EEOC is responsible for regulating and enforcing the Federal program for equal employment opportunity, developing the regulations and policies governing non-discrimination requirements, overseeing the development and implementation of Federal agencies' affirmative action programs, and adjudicating claims of disability discrimination in the Federal government. Instructions on affirmative action plans for job applicants and employees with disabilities may be found in EEOC's Management Directives 712 and 713.

EEOC's Management Directive 713 requires that Federal agencies submit Annual Affirmative Action Program Plans and accomplishment reports. This directive is issued pursuant to the EEOC's obligation and authority under Section 501 of the Rehabilitation Act of 1973.

EEOC is also responsible for approving or disapproving each agency-wide affirmative action program plan; evaluating the accomplishments of each agency; and communicating results of evaluations to each agency with instructions for submission of a revised agency-wide plan if required. EEOC will work closely with Federal Government personnel to assist in creating and implementing effective affirmative action programs.

Guidelines on reasonable accommodation for people with disabilities and nondiscrimination requirements applicable to all employers have been published by the EEOC. Most of these documents can be downloaded from EEOC's Internet website at: <http://www.eeoc.gov>.

In addition, EEOC issues an annual report on employment of individuals with disabilities in the Federal Government to the President and Congress of the United States.

### **U.S. Office of Personnel Management (OPM)**

OPM provides nationwide program leadership, development, and coordination for the

employment of people with disabilities, including veterans with service-connected disabilities. This includes providing direction, guidance, and technical support to agency heads, directors of personnel, agency personnel offices and officials; developing recruitment policy and appointing authorities; providing information on employment methods and program development to departments and agencies; developing publications for use in promoting employment; developing, monitoring, and modifying examining procedures to facilitate the employment consideration of qualified applicants with disabilities; and developing medical policy and realistic medical and suitability standards.

OPM takes the lead role in promoting reemployment of employees with or recovered from compensable injuries or illnesses, and fostering research and demonstration projects on disability related issues. Further, OPM maintains consistent liaison with the national offices of Federal, private, community, and other organizations concerned with the employment of people with disabilities.

### **President's Committee on Employment of People with Disabilities**

The President's Committee on Employment of People with Disabilities (PCEPD) is a small Federal agency whose mission is to communicate, coordinate, and promote public and private efforts to enhance the employment of people with disabilities. The PCEPD provides information, training, and technical assistance related to the employment of people with disabilities. Some of the projects and resources developed by the PCEPD include:

- The Job Accommodation Network (JAN), a toll-free information service on workplace accommodations and the employment provisions of the Americans with Disabilities Act. Anyone may call JAN at (800) 232-9675 or (800) 526-7234. One can also obtain information from the JAN Website:  
**<http://www.jan.wvu.edu/english/homeus.htm>.**
- The Workforce Recruitment Program (WRP) for college students with disabilities, a joint venture with the Department of Defense which identifies college and university students with disabilities seeking summer and permanent jobs. Federal employers may access the candidate database by contacting their agency's WRP representative.
- Education Kits containing timely fact sheets on disability employment issues. These and a list of publications are available by calling (202) 376-6200.
- The PCEPD's Website on the Internet is **<http://www.pcepd.gov>**. It provides

visitors direct access to their publications, speeches, press releases, statistical data, workplace laws, and other related topics affecting the employment of persons with disabilities.

## **Federal Employers**

Federal agency managers and supervisors are responsible for the employment and advancement of people with disabilities. This includes recruitment, hiring, training, career development, mentoring support and considering reasonable accommodations when requested.

Career development and promotion opportunities, training, awards, and other similar programs must be an integral part of an agency's responsibilities towards employees with disabilities.

Further, Federal employers are required to make reasonable accommodations to the known physical or mental limitations of a qualified applicant or employee with a disability, unless the agency can demonstrate that the accommodation(s) would impose an undue hardship on the agency. Absent undue hardship, agencies must remove physical barriers as a matter of reasonable accommodation to particular employees for whom necessary facilities are inaccessible.

Federal employers are to establish procedures to ensure that the employment and advancement of people with disabilities meet affirmative action program objectives, diversity planning, emphasis, and accountability. Federal employers should also ensure that there are no personnel or management policies, practices or procedures which unnecessarily restrict hiring, placement and advancement of people with disabilities.

It is illegal for a Federal agency to discriminate in employment against qualified individuals with disabilities. Anyone who believes he or she has been subjected to discrimination on the basis of disability may file a complaint with the employing agency's equal employment opportunity (EEO) office. Departments and agencies should refer to EEOC's MD-110 and 29 CFR, Part 1614, for additional guidance on the EEO complaint process.

## **Other Services and Resources**

Many valuable resources exist within the Federal government to help agencies meet their legal obligations:

- Equal Employment Opportunity Commission
- U.S. Department of Education:
- Rehabilitation Services Administration;
- Assistive Technology Program;
- U.S. Architectural and Transportation Barriers Compliance Board ("Access Board");
- U.S. Department of Transportation;
- President's Committee on Employment of People with Disabilities and its Job Accommodation Network (JAN); and
- General Services Administration.

Employees with disabilities within the agency are another vital resource. Many of them are active in advocacy groups, serve on agency advisory committees, and are experts on various aspects of disability and rehabilitation. Other resources include:

- Local and State Committees on Employment of People With Disabilities;
- University medical centers and counseling programs; and
- Advocacy organizations for persons with disabilities.

State Vocational Rehabilitation Agencies (SVRAs) and the U.S. Department of Veterans Affairs' (VA) Vocational Rehabilitation Program are also potential resources. They provide counseling, evaluation, training and other services to individuals with disabilities, including disabled veterans. Internet addresses for each SVRA can be accessed at: **[www.nchrtm.okstate.edu/ncrtm\\_links/state\\_VR.html](http://www.nchrtm.okstate.edu/ncrtm_links/state_VR.html)**.

For more information and to locate the nearest VA facility, please access the Internet at: **<http://www.va.gov/stations97/guide/home.asp?DIVISION=ALL>**. Also, telephone numbers may be found in the government blue pages section of the local telephone directory.

Through these various resources, agencies can find help to:

- Explain disabilities;
- Prepare certification documents;
- Refer qualified applicants and provide follow-up assistance for placements made;
- Provide assistance when individuals with disabilities employed under excepted appointing authorities are upgraded or downgraded or when problems arise with regard to these employees;

- Evaluate the rehabilitation needs of Federal employees who develop disabilities and advise managers and supervisors about services available;
- Purchase special equipment that individuals with disabilities need to perform their jobs;
- Locate trained readers for persons who have vision impairments, qualified sign language interpreters for persons who have hearing impairments, and personal assistants for individuals with disabilities;
- Advise about modification(s) needed to overcome architectural, transportation, and communication barriers;
- Participate in training programs for Federal employees, managers and supervisors relating to subjects such as reasonable accommodations, modification of jobs or worksites, affirmative action programs, and other related subjects; and
- Arrange for Federal employees, managers, and supervisors to tour rehabilitation centers, workshops, campus facilities for students with disabilities, and independent living centers.

## DEFINITIONS AND TERMS

**Person with a disability:** The Rehabilitation Act of 1973, as amended, defines a person with a disability as an individual who:

- Has a physical or mental impairment which substantially limits one or more of such person's major life activities (such as: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working). A "physical or mental impairment" means:
  - 1) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more systems such as: neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, respiratory, genito-urinary, hemic and lymphatic, skin, and endocrine; or
  - 2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- Has a record of such an impairment (this means that the person has a history of, or has been classified -or misclassified- as having a mental or physical impairment that substantially limits one or more major life activities); or
- Is regarded as having such an impairment; this includes individuals who are perceived to have disabilities.

**Qualified person with a disability:** A qualified person with a disability is a person with a disability who, with or without reasonable accommodation, can perform the essential functions of the position in question.

**Invisible (hidden) disabilities:** These are disabilities that are not readily apparent, such as asthma, arthritis, chronic fatigue syndrome, epilepsy, kidney disease, diabetes, cancer, chronic depression, learning disabilities, and mild mental retardation.

**Targeted disabilities:** Targeted disabilities, as defined by the Equal Employment Opportunity Commission (EEOC), are disabilities "targeted" for emphasis in affirmative action planning. These are: deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental retardation, mental illness, and genetic or physical condition affecting limbs and/or spine. Although the list of targeted disabilities is meant to include those who are most likely to suffer job discrimination, the EEOC recognizes that some disabilities that are not targeted are nevertheless just as

severe or more severe than some of the targeted disabilities.

**Substance abuse:** The Americans with Disabilities Act of 1990 amended the Rehabilitation Act (1973) definition of an individual with a disability to **exclude** “individuals currently engaging in the illegal use of drugs” with respect to discrimination based on illegal drug use regardless of whether it can be shown to adversely affect job performance or safety. Federal employers are no longer required to offer a firm choice or last chance agreement[s] unless mandated by agency policy or a collective bargaining agreement. Managers should consult with their agency Human Resources office, EEO, and legal counsel.

**Persons with Human Immunodeficiency Virus (HIV):** Protection under the Rehabilitation Act begins the moment a person becomes infected with HIV.



## **HIRING: ISSUES AND OPTIONS**

### **Qualified Job Applicant**

Federal employers must not discriminate against qualified job applicants with disabilities.<sup>2</sup> An applicant with a disability is "qualified" if he or she:

- satisfies the agency's job requirements for educational background, employment experience, skills, licenses, and any other qualification standards that are job related and consistent with business necessity; and
- is able to perform those tasks that are essential to the job, with or without reasonable accommodation.<sup>3</sup>

### **Essential Job Functions**

Essential functions are the basic job duties that an employee must be able to perform, with or without reasonable accommodation. Agencies should carefully examine each job to determine which functions or tasks are essential to performance. This is particularly important before taking an employment action such as recruiting, advertising, hiring, promoting, or firing.

Agencies should ask the following questions to determine if a job's functions are "essential:"

- Are employees in that position actually required to perform the function?  
  
Ex: If an announcement for a receptionist's position lists "typing" as a requirement, but other receptionists do not actually type as part of their job, the function is not "essential" to the job.
- How many other employees are available to perform the function or among whom the performance of the function can be distributed?
- Would removing the function fundamentally change the job?
- What degree of expertise or skill is required to perform the function?

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<sup>2</sup> See section "Definitions and Terms" for the definition of "disability."

<sup>3</sup> The term "reasonable accommodation" is discussed in the next section.

When asking these questions, the employer should focus on the purpose of the job, not on how the purpose is to be accomplished.

Ex: If a job requires mastery of information contained in technical manuals, this essential function would be "ability to learn technical material," rather than "ability to read technical manuals." People with vision and other reading impairments could perform this function using other means, such as audiotapes.

The same analysis applies to current employees with disabilities who are eligible for promotion consideration. That is, an employee with a disability is "qualified" for all promotions for which a similarly-situated non-disabled person would be eligible, provided that he or she can perform the "essential functions" of the job to which he or she would be promoted, with or without reasonable accommodation.

### **Individualized Assessment**

When determining whether a particular job applicant with a disability can perform the essential functions of a job with or without reasonable accommodation, Federal employers must conduct what is called an "individualized assessment." If this assessment indicates that due to the person's disability, even when given appropriate reasonable accommodations he or she could not perform the essential job functions, or could not perform them without posing a significant risk of substantial harm to the applicant or others, the agency does not have to give further consideration to him or her. The agency must look objectively at the particular person's current ability to perform the essential job functions, with or without reasonable accommodation. Generalized "blanket" exclusions of an entire group of people with a certain disability often prevent such individualized assessments. Agencies generally should not make such broad-based exclusions that do not reflect up-to-date medical knowledge and technology or that are based on fears about future medical or worker's compensation costs.

### **Medical Examinations and Inquiries**

An employer must wait until after making a conditional offer of employment before conducting a medical examination of a job applicant. OPM regulations generally prohibit an agency from ordering a medical examination for either an applicant or an employee unless the individual is applying for or occupies a position that is subject to specific medical standards, physical requirements, or a medical evaluation program.

Medical standards and physical requirements must be job related and be based on the minimum abilities necessary for safe and efficient performance of the duties of the position in question. For additional guidance, see 5 CFR Part 339 and 29 CFR 1614.203(e).

### **Confidentiality of Disability-Related Personal Information**

All information obtained from permissible affirmative action inquiries and post-offer medical examinations and inquiries must be collected and maintained on separate forms, in files that are separate from the standard personnel files, and must be treated as confidential medical records.

### **Hiring Options**

Agency personnel offices work with State vocational rehabilitation agencies (SVRAs), the Department of Veterans Affairs, colleges and universities (e.g., Gallaudet University) and other various organizations to locate and identify qualified people with disabilities. In addition, many Federal employers participate in focused job fairs and campus recruitment visits to identify qualified people with disabilities. Hiring may be accomplished through the competitive hiring process or, if the qualifications are met, through the use of excepted service appointment authorities.

Federal employers may use a variety of hiring options to bring people with disabilities into their workforce. Descriptions of key options are listed below.

### **Competitive Appointments**

Most Federal employees obtain jobs competitively. Applicants apply directly to the hiring departments and agencies for most positions. Federal employers use a variety of assessment tools in evaluating applicants and conducting hiring. If passing a written test is required, testing accommodations are available, if requested. Once this process is completed, an agency may select from a list of qualified applicants.

OPM has developed the **USAJOBS** Federal employment information system to assist job applicants seeking Federal employment. Job applicants can pursue Federal job opportunities by using any of the automated components of **USAJOBS**. **USAJOBS** provides worldwide job vacancy information, employment information fact sheets, job applications and forms, and has on-line resume development and electronic transmission capabilities. In many instances, job seekers can apply for positions on-line. **USAJOBS** is updated every business day from a database of more than 10,000 worldwide job opportunities. **USAJOBS** is available to job seekers in a variety of

formats, ensuring access for customers with differing physical and technological capabilities. It is convenient, user friendly, accessible through the computer or telephone and available 24 hours-a-day, seven days-a-week. The official web site for Federal jobs and employment information may be accessed at **<http://www.usajobs.opm.gov>**. An interactive voice response telephone system can be reached at (912) 757-3000 or TDD (912) 744-2299 or at 17 OPM Service Centers located throughout the country (local numbers listed in the blue pages).

### **Time-limited Appointments**

An agency may fill a position using a temporary or term appointment when the need for an employee's services is not permanent. Temporary appointments are made not to exceed one year, with one 1-year extension. The work must not be permanent in nature. In contrast, term appointments are made for a period of more than one year but not to exceed four years.

Term appointments are appropriate when there is project work, extraordinary workload, scheduled abolishment, reorganization, contracting out of the function, uncertainty of future funding, or the need to maintain permanent positions for placement of employees who would otherwise be displaced from other parts of the organization.

### **Student Employment Programs**

The Student Educational Employment Program helps Federal employers find the right people to fill current and future hiring needs. The program also gives students the opportunity to get hands-on experience in their chosen career field. The program has two major components; Student Temporary Employment and Student Career Experience.

- **Student Temporary Employment** opportunities range from summer jobs to positions that can last as long as the student is enrolled. The Federal job does not have to be related to the student's academic field of study.
- **Student Career Experience** opportunities include formal periods of work and study while the student attends school. This requires a commitment by the student, the school, and the Federal employer. Work experience is directly related to the student's academic field of study. After successfully completing the educational and work requirements, the student is eligible for permanent job opportunities.

## **Presidential Management Intern (PMI) Program**

The PMI Program is designed to attract to the Federal service outstanding graduate students from a wide variety of academic disciplines who have an interest in, and commitment to, a career in the analysis and management of public policies and programs. Individuals eligible to be nominated for the PMI Program are graduate students completing a master's or doctoral-level degree from an accredited college or university during the current academic year.

Students are nominated for the PMI Program by the appropriate dean, director or chairperson of their graduate academic program. All nominees are evaluated by an OPM-developed structured assessment process. Selection as a PMI finalist is based on review of the PMI application and the structured assessment process.

PMIs receive an initial two-year appointment. During the two-year internship, PMIs experience structured orientation and graduation training programs facilitated by OPM, as well as seminars, briefings, conferences, on-the-job training, rotational assignments, and other developmental opportunities arranged by participating Federal employers. After successfully completing the two-year program, PMIs may be eligible for conversion to a permanent position and further promotional opportunities.

## **Appointment Under Special Authorities**

The Federal Government's hiring options include excepted service special appointing authorities for people with disabilities. Federal employers are authorized to use these authorities when considering certain people with disabilities (those who have severe physical, cognitive, or psychiatric disabilities or who have a history of or who are regarded as having such disabilities). The authorities provide a unique opportunity to demonstrate the potential to successfully perform the essential duties of a position with or without reasonable accommodation in the workplace.

- **Schedule A, 5 CFR 213.3102(t) for Hiring People with Mental Retardation.** This authority is used to appoint persons with cognitive disabilities (mental retardation) who meet the eligibility requirements. Upon completion of 2 years of satisfactory performance the employee may qualify for conversion to the competitive service.
- **Schedule A, 5 CFR 213.3102(u) for Hiring People With Severe Physical Disabilities.** This authority is used to appoint persons with severe physical disabilities who: (1) under a temporary appointment have demonstrated their

ability to perform duties satisfactorily; or (2) have been certified by a counselor from a State vocational rehabilitation agency (SVRA) or the Department of Veterans Affairs Vocational Rehabilitation Office as likely to succeed in performance of duties. Upon completion of two years of satisfactory service under this authority, the employee may qualify for conversion to the competitive service.

- **Schedule B, 5 CFR 213.3202(k) for Hiring People Who Have Recovered from Mental Illness.** This authority permits appointments at Grades GS-15 and below when filled by individuals who: (1) are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Department of Veterans Affairs counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the position to which they will be appointed, and that any residual disability is not job related. Employment under this authority may not exceed two years following each significant period of mental illness.<sup>4</sup>

In addition, Federal employers can use the following hiring authorities to provide assistance to employees with disabilities:

- **Schedule A, 5 CFR 213.3102(II) for Hiring Readers Interpreters, and Other Personal Assistants.** This authority permits appointments of readers, interpreters, and personal assistants for employees with severe disabilities when filled on a full-time, part-time, or intermittent basis. Upon completion of at least one year of satisfactory service under this authority, the employee may qualify for conversion to the competitive service.

## **Disabled Veterans**

- **30 Percent or More Disabled Veterans.** Federal employers may give a noncompetitive temporary appointment of more than 60 days (see 5 CFR

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<sup>4</sup> OPM will issue regulations implementing Executive Order, No. 13124, dated June 4, 1999, providing persons with psychiatric disabilities the same employment opportunities as persons with mental retardation or severe physical disabilities. Until the regulations are final, agencies may continue to use 5 CFR 213.3202(k) and any other appropriate excepted service appointing authorities to appoint persons with psychiatric disabilities

316.302(b)(4)) or a term appointment (see 5 CFR 316.402(b)(4)) to a veteran:

- retired from active military service with a disability rating of 30 percent or more; or
- rated by the Department of Veterans Affairs (VA) within the preceding year as having a compensable service-connected disability of 30 percent or more.

There is no grade level limitation for this authority, but the appointee must meet all qualification requirements, including any written test requirement. Reasonable accommodations must be provided for any written test.

The agency may convert the employee, without a break in service, to a career or career-conditional appointment at any time during the employee's temporary or term appointment.

- **Disabled Veterans Enrolled in VA Training Programs, 5 CFR 315.604.**  
Disabled veterans who are eligible for training under the Department of Veterans Affairs' (VA) vocational rehabilitation program may enroll for training or work experience at an agency under the terms of an agreement between the agency and VA. The veteran is not a Federal employee for most purposes while enrolled in the program, but is a beneficiary of the VA. The training is tailored to individual needs and goals so there is no set length. If the training is intended to prepare the individual for eventual appointment in the agency rather than just work experience, the agency must insure that the training will enable the veteran to meet qualification requirements for the position.

Upon successful completion, the VA and the host agency give the veteran a Certificate of Training showing the occupational series and grade level of the position for which he or she has been trained. The Certificate of Training allows any agency to appoint the veteran noncompetitively under a status quo appointment which may be converted to career or career-conditional at any time.

## **Certification**

An individual who has a physical disability is considered to have met OPM qualification standards for either a temporary competitive service appointment or an excepted service Schedule A appointment when an appropriate certification is received from a State Vocational Rehabilitation Agency (SVRA) or the Department of Veterans Affairs. The certification is prepared by a counselor on the basis of job-site inspection, analysis of job tasks, and evaluation of the proposed appointee's abilities and disabilities. The

certification must state that in the counselor's judgement the proposed appointee is able to perform the duties of the position and is physically qualified to do the work safely. The certification must be supported by a medical report and a narrative statement documenting the counselor's conclusions. Factors to be discussed include training, education, work history, modification of job or worksite if needed, and limitations of the proposed appointee.

The certification required for an excepted service Schedule A appointment of an individual who is mentally retarded need only state that the individual has the ability to perform the duties of the position; is physically able to do the job safely; and can maintain himself or herself in the work environment. No medical report is required.

The certification required for appointment of individuals with psychiatric disabilities under an excepted Schedule B appointment must include documentation of a history of mental illness which includes periods of hospitalization or outpatient treatment within the previous two years; a statement by a psychologist or psychiatrist as to the individual's capability to function in the work setting; and a statement indicating that the individual is currently unemployed or has had a significant period of substantially disrupted employment within the previous two years.

Any of these certificates must be maintained in a separate, confidential folder, rather than in the person's official personnel folder (OPF). This material is not to be included or placed into the individual's OPF or Employee Medical Folder.



## **REASONABLE ACCOMMODATION**

Federal departments and agencies are required to make reasonable accommodation to the physical or mental limitations of an applicant or employee who is a qualified person with a disability unless the accommodation would impose an undue hardship on the agency. An undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as the employer's size, financial resources, and the nature and structure of the operation.<sup>5</sup>

A reasonable accommodation is an adjustment or alteration that enables people with disabilities to apply for jobs, to gain access to the work environment, to perform job duties, or to enjoy the benefits and privileges of employment. There are many types of accommodations such as worksite modifications; adjusting work schedules; restructuring jobs; acquisition or modification of equipment or devices; obtaining accessible technology or other workplace adaptive equipment; providing interpreters, assistive devices, readers; and reassigning employees.

Accommodations are determined on a case-by-case basis, taking into consideration the applicant or employee, his/her specific disability and the existing limitations, the essential functions of the particular job, the work environment, and the effectiveness of the proposed accommodation. Generally, an individual with a disability must request reasonable accommodation to trigger an agency's obligation to provide one. In all cases, the applicant or employee should be consulted before an accommodation is made. Accommodations are highly individualized and what may be successful for one individual with a disability may not be appropriate for another. The value and nature of a particular accommodation may be clarified by considering questions such as:

- Does the disability require the reasonable accommodation?
- Does the reasonable accommodation remove the workplace barrier that is preventing the individual from effectively applying for a job, performing a job, or gaining access to the benefits and privileges of employment?
- Will the accommodation give the person the opportunity to function, participate, or compete on an equal basis with others?
- Are there alternatives that would accomplish the same purpose?

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<sup>5</sup> Departments and agencies should consult the Enforcement Guidance on Reasonable Accommodation issued by the EEOC on March 1, 1999. This guidance offers additional information not covered in this document, including discussions of the interactive process between the employer and individual with a disability and the types of modifications that employers are not required to provide.

In determining undue hardship, consider the following factors:

- Overall size of the agency, with respect to the number of employees, number and type of facilities, and size of budget;
- Type of agency operation; and
- Nature and cost of the accommodation.

Reasonable accommodations are as varied as the needs of the individuals involved, the type of position in question, and ingenuity of the agency. Some examples are provided below:

### **Testing with Appropriate Accommodations**

Federal employers may not use any test or other selection criterion that screens out or tends to screen out, people with disabilities unless the test is job-related for the position in question and consistent with business necessity. Agencies must select and administer tests to ensure that the scores of applicants or employees who have disabilities that impair sensory, manual, or speaking skills accurately reflect the ability of the applicant to do the job in question rather than disabilities of the employee or applicant.

**Modifying Written Examinations:** The objective is to eliminate any artificial barriers which would prevent persons with disabilities from demonstrating their capabilities in the examination process. Modification of examination procedures can include modifying test administration methods or exam format.

Consideration should be given to scheduling individual or small group testing, allowing extra time, and using examiners who are aware of the test-taker's disability and have received appropriate training in test administration. Accommodations may include providing auxiliary aids and services leading to effective communication, such as providing Braille, large-print, or tape-recorded tests for persons with vision impairments, tape-recorded tests to people with reading disabilities; scribes or recording devices for persons who have difficulties using their hands to record answers; qualified sign language interpreters or computer-assisted real-time transcription (CART) services to convey spoken portions of tests -- including instructions -- to persons who are deaf; and assistive listening systems and devices for those who are hard of hearing.

**Exam format:** If an applicant's disability causes some part of a test to be unusable or inappropriate, it may be necessary to modify the exam format or to develop alternate

materials which measure the same knowledge, skills, and abilities that do not screen out people with disabilities. OPM has modified certain examinations for persons with hearing or vision impairments and learning disabilities and may be able to offer advice about types of modifications.

**Examination Facilities:** Examinations must be offered in accessible facilities. If a thorough review of an examination facility reveals the presence of barriers (stairs, inaccessible parking, etc.), steps should be taken to remove those barriers or, when this is not feasible, to arrange for use of an alternate, accessible location.

Many people with disabilities, even those with significant disabilities, may not need testing accommodations. Testing accommodations are often made for persons with neurological disorders such as cerebral palsy or multiple sclerosis, persons who have limited mobility or motor control of their arms or hands, persons with brain injuries, and persons with learning disabilities such as dyslexia. In many of these instances, extended time for testing may be appropriate, in addition to other types of accommodations.

## **Restructuring Jobs**

Job restructuring is one way of integrating qualified people with disabilities into the workforce. Job restructuring, however, does not alter the essential function of the job. Federal employers should identify which factors make a job incompatible with an individual's disability and, if possible, eliminate incompatible factors so that the capabilities of the person may be used to the best advantage. This may involve changing job content by isolating and eliminating non-essential duties through reassignment, or altering the way objectives are accomplished.

The following must occur before job restructuring:

- Federal employers must understand the capabilities of individuals and identify limitations prior to job restructuring. The person with a disability should be consulted throughout the process. Supplemental information can be obtained through consultation with disability specialists.
- Careful job analysis to determine the exact demands of positions must also precede job restructuring. Inputs by those with intimate knowledge of the tasks involved, such as supervisors and persons who currently perform the job functions or those who have performed them in the past, should be included in the analysis. This enables the most accurate differentiation to be made between essential functions and those which are non-essential and can be reassigned.

For a discussion of the steps agencies should take to determine a job's essential functions, see the discussion at pp. 12-13.

The restructuring and job analysis processes should also be used in creating positions, modifying existing position descriptions, developing recruitment strategies, determining selection criteria, designing performance plans, determining training needs, and other human resource initiatives.

## **Modifying Worksites**

Changes in the work environment and technology will enable some people with disabilities to more effectively perform their duties. Alterations may consist of: rearranging files or shelves to improve accessibility for people who use wheelchairs; using Braille labels for persons with vision impairments; raising or lowering equipment to provide comfortable working heights for people with back injuries; installing special holding devices on desks, machines, or benches for people with mobility impairments; using adaptive technology such as screen readers for people who are blind; or providing special heating or air conditioning units for persons who are sensitive to environmental temperature.

Work locations should be reviewed by supervisors, Disability Employment Program Managers, SVRA and VA -counselors, building managers, and persons with disabilities to identify needed worksite and workstation modifications.

## **Accessible Facilities**

Under section 504 of the Rehabilitation Act, all Federal agencies must ensure that their programs and activities are accessible to persons with disabilities. This does not mean that every element of every Federal facility has to be fully accessible. Rather, it means that agencies must take necessary steps to make all of their programs accessible to persons with disabilities.

Additionally, agencies may have to eliminate architectural barriers as a matter of reasonable accommodation to an individual employee or applicant under section 501 of the Rehabilitation Act. Eliminating architectural barriers through such means as ramps, wider doorways, elevators, work platforms, and handrails often make the work facility more usable by all employees, not just those with disabilities.

## **Adjusting Work Schedules**

Some people with disabilities possess great productive potential which is not utilized because they cannot meet the requirements of a standard 40-hour work week. By taking advantage of the flexibility of alternative work schedules, accommodations can be made for various disabilities. For example, people with mobility impairments may find it difficult to maneuver during peak periods on public transportation systems and may require an earlier or later work day. In another instance, employees requiring medical treatments may need a flexible schedule on certain days of a week. Employees requiring shorter hours may be accommodated by use of a part-time schedule or a job sharing arrangement.

## **Assistive Devices**

Many assistive devices are available to people with disabilities. Such devices can ensure successful job performance, enabling people with disabilities to perform tasks they would not otherwise be able to do or to increase the quantity, quality, or efficiency of their work. Before purchasing any assistive equipment, the agency should engage in a meaningful dialogue with the individual requesting the accommodation as to what is needed and/or desired.

Agencies should look to their own resources to fund reasonable accommodations such as obtaining and supporting assistive technology. Federal employers are authorized to purchase equipment if it is determined that the use of the equipment is a reasonable accommodation that will enable an employee with a disability to better perform his or her job. In certain cases, however, the Department of Veterans Affairs or State vocational rehabilitation office may provide the assistive device to the individual requesting a reasonable accommodation if the employee is already a client of that agency or office.

## **Readers, Interpreters, and other Effective Communication Tools**

One key component of reasonable accommodation is to ensure effective communication with employees who have communication-related disabilities, such as those with vision, hearing, or speech impairments. Agencies must provide appropriate "auxiliary aids and services" such as qualified sign language interpreters, trained readers, computer-assisted real time transcription services, and alternate format documents (Braille, large print, audio cassette, or computer disk), unless doing so would fundamentally alter the program or impose an undue hardship on the agency.

**Readers:** Persons who are blind or who have low vision may need trained readers to be able to access information contained in otherwise inaccessible material. For instance, a lawyer who is blind may need a trained reader to read aloud deposition transcripts and correspondence from opposing counsel. Appropriate assistive technology, such as screen readers or Braille displays, can make much computer-based information accessible to someone who is blind or who has low vision, thus reducing (though not eliminating) the employee's reliance on a trained reader.

**Interpreters:** Persons who are deaf or hard of hearing and who use sign language may need qualified sign language interpreters. Someone is a "qualified sign language interpreter" if he or she can interpret competently, accurately, and impartially, both receptively and expressively, using any specialized terminology necessary for effective communication in the employment setting.

Someone who is deaf and who does not know sign language may benefit from a qualified oral interpreter in certain circumstances. Many people who are deaf learned to communicate using American Sign Language (ASL), rather than English, as their primary means of communication. ASL has a different vocabulary and syntax than English.

While an employee who is deaf or hard of hearing and who uses sign language may not need a qualified sign language interpreter dedicated to his or her full-time use, qualified interpreters should be used in at least the following circumstances:

- employee orientations;
- staff meetings;
- training;
- whenever job duties change or when there is a new major assignment;
- any meetings at which more than two people are involved (it is extremely difficult to follow group discussions by lipreading);
- annual or semi-annual performance evaluation meetings;
- any time when promotion eligibility or disciplinary action is being discussed; and, if needed,
- any other time when efficient and effective communication is important, or when verbal communication will be lengthy: or if a deaf or hard of hearing person can show why other forms of communication would be ineffective.

When qualified sign language interpreters are not necessary, such as for relatively short, routine matters, communication with an employee who is deaf may be accomplished by exchanging handwritten notes or typing back and forth on a computer

keyboard or TTY.

**TTY's:** A "TTY" — also known as a "text typewriter" or "TDD" — is a device which allows someone who is deaf or hard of hearing or someone with a speech impairment to communicate by telephone by sending and receiving typed communications. The TTY user can communicate directly with someone else who also uses a TTY, or with those who do not use TTY's by calling a relay operator who will voice the person's typed communication and then type the non-disabled person's spoken communications.

Agencies are encouraged to provide training to all co-workers of persons who use TTY's in how to make and receive calls using the relay system. The Federal Relay Service will provide appropriate training materials upon request. Check your local phone book for the Federal Relay Service number in your area.

**Use of Untrained Co-workers as Readers or Interpreters:** It is usually inappropriate for an agency to rely on the untrained co-workers of a person who is blind to act as a reader, and nearly always inappropriate for an agency to rely on a co-worker to act as a sign language interpreter for a person who is deaf, unless the co-workers are qualified to do this work and it falls within their job description. Inappropriate reliance on untrained co-workers as readers or sign language interpreters for persons with disabilities is likely to create resentment among all parties: co-workers have their own work to do and people with disabilities have the legal right to effective communication -- which can often only be provided through the use of appropriately trained individuals. Even if co-workers have learned rudimentary signs through daily communication with the person who is deaf, they are unlikely to be able to provide effective communication in an employment setting.

**CART — Computer Assisted Real-Time Transcription:** CART is a way of making verbal communication accessible to persons who are deaf or hard of hearing and who do not use sign language. It requires a trained person, like a stenographer, to use special equipment to transcribe verbal communication as it is taking place. The transcription may appear on a computer monitor or be projected onto a screen. The service is similar to closed captioning of a live television program.

**Alternate Format Materials:** Agencies must provide alternate format materials or other auxiliary aids and services that will allow persons who have vision impairments full access to written materials used in the course of their employment, including such things as employee manuals and leave and earning statements. Alternate formats include Braille, large print, audio cassette recordings, and electronic copies on computer disks.

## **Flexible Leave Policies**

Federal employers have the authority to adopt flexible leave policies that will accommodate people with disabilities. While the administration of the leave system is subject to certain laws and regulations, departments and agencies can adopt flexible leave policies that will accommodate people with disabilities. Instances may include the following circumstances:

- When extreme weather conditions make it difficult for employees with mobility impairments to get to or from work. For example, employees are generally expected to report for work after snow removal has been accomplished. However, in many cases, snow removal equipment makes travel by mobility-impaired individuals even more difficult by creating snow drifts at the curb cuts. Federal employers can adopt separate leave policies for such situations, but should identify in advance employees who would be covered by the extended policy.
- When temporary building conditions adversely affect performance or health, such as extremes of heat or cold which could affect persons with neurological disorders or respiratory ailments.

Leave policies may also include granting extended leave without pay for illness or disability. Employees may also qualify for leave under the Family and Medical Leave Act. Whatever flexibility is used, the policies should be carefully detailed to avoid misunderstanding and the method for determining the length of the leave should be consistently applied for all appropriate employees.

## **Reassignment**

In cases of current Federal employees who develop disabilities during their employment, or whose disabilities are aggravated during their careers, Federal employers have a responsibility to make a concerted effort for their continued employment. An employee who, because of a disability, is unable to continue to perform the essential functions of his or her current position may have options available other than applying for disability retirement. The first step should be to explore the possibility of accommodating the employee in his or her current position. Minor job modifications or changes in the physical environment are often all that is needed to allow an employee with a disability to continue working productively.



Agencies must consider reassignment as a reasonable accommodation when an employee, due to a disability, can no longer continue performing the essential functions of his/her current position, even with reasonable accommodation. A Federal employer should always first attempt to provide reasonable accommodation in an employee's current position. If that is not possible, then a Federal employer must look for a vacant position that is equivalent to the employee's current position in terms of a number of factors, including grade, level of work assignments, pay, benefits, and geographic location. If no equivalent vacancy exists, then the employer must look for a lower position that is as close as possible to the employee's current position. Although this is a non-competitive process, the employee must be qualified for the vacant position. In order to determine the employee's qualifications for a vacant position, the employer should consult with the employee about his/her work experience, skills, and education.

### **Eliminating Transportation Barriers**

One of the most difficult problems people with disabilities face is transportation to and within the work site. Federal employers can do a great deal to help people with disabilities solve their personal transportation problems. Such assistance can consist of helping employees form car pools, helping people with disabilities locate co-workers with whom they may car pool; or allocate parking spaces to employees with disabilities.

Drivers who provide transportation to Federal employees with disabilities may make use of parking privileges for people with disabilities who ride with them. The General Services Administration has ruled that Federal employers are to give these persons the same priority in assignment of parking spaces that they give persons with disabilities.

Agencies that provide transportation for workers, such as shuttle buses between work sites, must ensure that equivalent accessible transportation is provided to employees with disabilities. Shuttle bus drivers should announce the location of stops to enable persons with vision impairments to use the service effectively. Shuttle buses should have lifts for persons who use wheelchairs or alternate equivalent means of transportation should be provided to such individuals.

### **Services Provided Through Contractors**

Agencies must ensure that when support services are provided through contractors, reasonable accommodations are provided to persons with disabilities who use those services. For instance, if an agency contracts with a computer firm to provide software training, the agency must ensure that training for an employee who is deaf is communicated effectively to that employee, usually by a qualified sign language

interpreter. Training materials provided by the contractor must be made accessible to persons who have vision impairments, such as by putting them in Braille, large print, audio tape, or on computer disk, depending on what would be effective for the person with a disability.

### **Minimal Cost Accommodations**

In many cases, the cost of a job or work environment accommodation can be minimal. A few examples are as follows:

- To accommodate a person who uses a wheelchair, reasonable accommodations may include the ability to access the building, the office, and files. The desk must be the right height to accommodate the wheelchair. This may be accomplished by raising the desk using wooden blocks to prop it up, and then moving furniture so that the employee may move around the office. Files can be placed to make them easily accessible.
- An individual with arthritis experiencing difficulty with maintaining stamina during the workday may be accommodated by providing flexibility in work hours, and a recliner to allow change in body positions to cut down on fatigue.
- Visual aids, screen readers, and enlargers; voice activated software; and refreshable Braille displays may assist people who are blind or have vision impairments. Initial contact should start with the person with a disability and the office responsible for information technology (IT) management.

Federal employers wishing to learn more about reasonable accommodation policies and guidelines may wish to contact EEOC. Free copies of the EEOC's published guidance on reasonable accommodation and other issues pertaining to non-discrimination against people with disabilities can be obtained by calling (800) 669-3362 (v), and TTY (800) 800-3302. They can also be reviewed at EEOC's website: <http://www.eeoc.gov>.

Other resources for technology-related technical assistance and accommodation assessment are the Assistive Technology Program at the Department of Education, the Computer/Electronic Accommodations Program (CAP) at the Department of Defense, and the Center for Information Technology Accommodation at the Office of Government Wide Policy at General Services Administration.

### **Other Types of Modifications**

There are various modifications or assistance that are not legally required as reasonable accommodations, but that can provide enormous benefits to both the individual with a disability and the employer. Federal employers should consider training employees with disabilities for positions for which they have the basic qualifications and capabilities. Although there are initial expenses involved, the result will often justify the expenditure if the employee and the position are matched carefully beforehand.

Ex: Federal employers should consider training individuals with disabilities for positions for which they do not have the basic qualifications and capabilities, where such employees can be expected to obtain them through retraining.

## **WORKING WITH PEOPLE WITH DIFFERENT DISABILITIES**

### **People with Mobility Impairments**

Countless injuries, diseases, and conditions can cause mobility impairments that affect an individual's ability to find and keep a job. Some disabilities are acquired at birth. Others stem from accidents or illnesses later in life. Basic mobility, coordination and balance, strength and endurance, and other aspects of body function may be affected.

Many people who have mobility impairments use adaptive equipment of one kind or another. Mobility aids such as canes, crutches, walkers, and wheelchairs are especially common. Prosthetic devices (such as artificial arms or legs), and body braces may also be used. Some people with mobility impairments use service animals to assist them with carrying or retrieving items, opening doors, and achieving greater independence.

One may wish to consider the following suggestions when interacting with individuals who have mobility impairments:

- When scheduling a job interview or meeting, make sure the location does not have any barriers such as a step at the threshold or inadequate accessible parking.
- Do not hold the person's wheelchair or assume the individual wants to be pushed; always ask first.
- A wheelchair is considered part of the person's personal space. Offer assistance but do not insist. If the person needs help, he or she will accept the offer and explain exactly what will be helpful.
- For prolonged conversations with someone who uses a wheelchair, sit down so as to be at the eye level of the wheelchair user.
- Do not be surprised if the person transfers from a wheelchair to a piece of furniture or gets out of the wheelchair to move about. Not all wheelchair users have paralysis; many can walk with or without the aid of canes, braces, or crutches.
- If a person uses crutches, a walker, or some other assistive equipment, offer

assistance with coats, bags, or other belongings.

- Ensure extra maneuvering space and non-slip floor coverings for the safety of a person who uses crutches or a walker.
- Do not be sensitive about using words like “walking” or “running.” People who use wheelchairs often use the same words.

## **People Who Are Blind or Who Have Vision Impairments**

The terms “blindness” and “vision impairment” may mean either a complete or partial loss of vision. With many, only the edges or a part of the visual field may be obscured, or there may be no central vision although side or peripheral vision still exists. A person’s visual acuity may also change under different light conditions.

Many people who are blind get around on their own by using a guide dog or cane. People with vision impairments may or may not use these or other mobility aids. For many jobs, even those requiring lots of reading, vision simply is not necessary. Successful employment of people who are blind or who have vision impairments depends upon thorough job analysis, enlightened employer acceptance, and proper management support. One may wish to consider the following suggestions when interacting with individuals who are blind or who have vision impairments:

- If the person seems to need assistance, offer one’s services. If a person who is blind needs guidance through a door or to a chair, let the person take one’s arm and follow the motion of one’s body. Tell him or her where the chair is in relation to his or her body. If one approaches steps, mention how many and the direction.
- Speak directly to the individual who is blind or who has a vision impairment. Speak in a normal tone of voice.
- Introduce other people in the room or have them introduce themselves. This will assist the individual in orienting himself or herself to the room and its occupants.
- Never touch or distract a service guide dog without first asking the owner. Service animals are not pets and generally should not be disturbed while in a working mode.
- When giving directions, do not use references a person cannot see. “Over there” is not a good way of describing a location. When using directional words, use them with the orientation of the person who is blind or who has a vision

impairment.

- Tell the individual when one is leaving the room.
- When guiding a person into a new or strange surrounding, one may want to describe special features or decorations.
- One should be prepared to read aloud information that is written, or ask the person if he or she could use the services of a trained reader.
- When interviewing or meeting with people with vision impairments, ask whether they would prefer a well-lit area. Avoid sharp contrasts of light and dark areas.

### **People Who Are Deaf or Hard of Hearing**

Individuals may be deaf or hard of hearing and be able to speak clearly. They may be placed in almost any type of position, except those for which acute hearing is a legitimate safety requirement. Even in those circumstances, an individualized assessment should be performed. Extra time may be required in settings where there is a lot of verbal communication, such as interviews and meetings.

Communication difficulties should not be regarded as indicative of more extensive impairments and should not be allowed to obscure an applicant's knowledge, skills and abilities. In many situations, it is necessary to obtain the services of a qualified sign language interpreter to provide effective communication, if the person who is deaf or hard of hearing uses sign language as his or her primary means of communication. Other accommodations that may be required include the use of assistive listening systems and devices for persons who are hard of hearing, or computer-assisted real-time transcription (CART).

One may wish to consider the following suggestions when interacting with individuals who are deaf or hard of hearing:

- When speaking with someone who is deaf or hard of hearing, face the person directly. Gain his or her visual attention before starting a conversation. For instance, if you are entering his or her office and the person's back is to you, flicker the room lights.
- When speaking to persons who are deaf or hard of hearing, use meaningful facial expressions and gestures to emphasize one's intent and attitude. This

helps to substitute for one's tone of voice. Try to find a quiet place away from computers, telephones, and other sources of noise, and one which has adequate lighting.

- Not all people who are deaf or hard of hearing know or use sign language. Do not assume they need interpreters.
- If using a sign language or oral interpreter, speak directly to the person with the hearing impairment, not the interpreter. Face the light, speak clearly, in a normal tone of voice, and keep one's hands away from one's face.
- If one cannot understand the person with a hearing impairment, do not be afraid to ask him or her to repeat. If this approach does not work, one can ask if it would be helpful to communicate by writing or using a computer terminal.

### **People with Invisible (Hidden) Disabilities**

There are many invisible disabilities such as asthma, arthritis, heart disease, environmental illness, AIDS, chronic fatigue, psychiatric or mental illnesses, attention deficit hyperactivity disorder, learning disabilities, and mild mental retardation. If an applicant brings the condition to the prospective employer's attention, one may ask whether the condition might have an impact on his or her work and if there are any necessary accommodations. For additional information regarding a description of invisible disabilities, please see the resources section of this handbook.

### **People with Mental Retardation**

Many people with mental retardation have average or superior abilities in some respects. While it is true that some people with mental retardation may not be able to think, reason or remember as well as others, it is important to remember that, like others, they have their own strengths and weaknesses. Mental retardation should not be confused with mental illness or behavioral and emotional problems. The effect of the disability can be lessened, and skills and abilities increased, through rehabilitation, education, and experience on the job.

People with mental retardation, like others, may want to be independent and responsible for their own support. The object should be to reduce the need for learning details, exercising judgment, and finding new solutions to problems.

Success on the job often depends upon the willingness of others to devote reasonable time and interest to helping the individual adjust initially and meet new challenges as

they arise. One of the greatest obstacles to equal employment opportunity for these individuals is persistent lack of employer confidence in, and lowered expectations of their capabilities.

One may wish to consider the following suggestions when interacting with individuals with mental retardation:

- For the most part, one should talk to the individual in the same manner as anyone else, but be more specific.
- In an interview setting, ask questions and occasionally repeat responses to ensure effective communication.
- Provide information as to where things are located, such as time clock, lockers, restroom, cafeteria, drinking fountain, supply room, etc.
- Take care to explain about working hours, proper dress for the job, work station location, rate of pay, reporting official, and transportation options.

### **People with Psychiatric Disabilities**

Psychiatric disabilities are diverse and include anxiety disorders, depression, mania, schizophrenia, and other conditions. One may wish to consider the following suggestions when interacting with individuals who have a psychiatric disability:

- Talk to the individual as one would to anyone else. Integrate the person as fully into office activities as other employees. Do not ostracize him or her due to his psychiatric condition.
- As many psychiatric medications cause extreme thirst, upon request allow the person to have access to beverages even where food and drink are normally prohibited.
- Consider offering a flexible schedule to allow the person to attend medical appointments and therapy sessions and to deal with medication issues, insomnia, fatigue, or other conditions that often accompany psychiatric disabilities.



## **People with Muscular or Neurological Limitations**

Muscular or neurological disabilities may affect motor ability and/or speech. Intelligence is not affected. Some involuntary or halting movement or limitation of movement in one or more than one appendage may be observed, as well as some lisping, indistinct speech or flatness of tone due to lack of fine motor control of the tongue and lips. The severity and functional effects of the disability vary from person to person. Unless the person has a significant disability, or has the involvement of other disabilities, no accommodation may be needed during an interview setting or meeting.

If the person's speech is difficult to understand, ask him or her to repeat what was said. Some people who have significant cerebral palsy or other muscular or neurological disabilities may communicate by writing, typing, or using a communication board or other electronic device.

## **INTEGRATING PEOPLE WITH DISABILITIES INTO THE WORKFORCE**

The President's Committee on Employment of People with Disabilities has a six-step process for integration. It consists of:

- 1) **Commitment** - Let the people in the agency know of the commitment to employ, advance and retain people with disabilities. Workforce diversity includes people with disabilities.
- 2) **Recruitment** - Let the Personnel/Human Resource office and Disability Employment Program Managers know that one is aggressively seeking job candidates with disabilities. Send agency vacancy announcements to disability-related organizations and Federal employers. State the agency's interest in receiving applications from people with disabilities on the job announcement.
- 3) **Interviewing** - Look at the essential functions and competency requirements of the job, the qualifications of the individual, and the availability of reasonable accommodations. Do not let the disability distract from evaluating the candidate's qualifications.
- 4) **Placement** - Test accommodations and adaptations once the person is on the job. Ask the employee with a disability to help in the process.
- 5) **Training** - Any employee's success hinges on proper orientation and training. Insure that all such agency programs are available and accessible to employees with disabilities. This includes training programs that may lead to upward mobility and career advancement.
- 6) **Awareness/Sensitivity** - Train managers, supervisors, and employees about disability myths and misconceptions. An educated workforce will be better able to ensure the success of employees with disabilities.

### **Interviewing**

Interviewing people with disabilities is the same as interviewing people who do not have disabilities. In general, the selecting official should ask all applicants about their qualifications, experience, and skills for doing the job. However, there are some guidelines that are specific to people with disabilities. Unless an individual is seeking

appointment under one of the special excepted appointment authorities, a selecting official should only ask questions about the person's ability to do the job. The office should make sure that all questions are job-related. The focus of the interview should be on the individual's ability to successfully perform the essential functions of the job and demonstrating the competencies or knowledge, skills, and abilities needed to perform the job. Understanding what are the job's essential functions and the competencies required to perform those functions is particularly important to prepare for applicant interviews.

If the person volunteers that he or she has a disability which makes it difficult to perform particular functions of a job, or if the selecting official believes that a person's readily-apparent disability may make it difficult to perform certain job functions, the selecting official may ask job-related follow-up questions, such as, "Describe how you can perform the job." The answer to such questions will indicate whether a reasonable accommodation is needed to enable the individual to perform the essential functions of the job. In addition to asking a job applicant with a visible disability how he or she can perform the job, and employer may also ask, "Do you need a reasonable accommodation?"

It is the responsibility of the job applicant to inform the employer of any accommodation needs, but once the issue has been raised, the employer and prospective employee should engage in a meaningful dialogue about the job functions and how they can be accomplished. Employers should not make general assumptions that an individual with a disability will be unable to do a certain part of the job or that a reasonable accommodation will be needed. Hiring decisions should never take into account the additional costs associated with providing a reasonable accommodation to an applicant with a disability, unless the applicant could not perform the essential job functions without a specific reasonable accommodation that was so expensive that it would impose an undue hardship on the agency.

## **Career Development**

One of the major problems facing many people with disabilities is underutilization of their knowledge, skills, and abilities. Developmental details and reassignments can be used as a means of providing on-the-job training which will enhance promotion opportunities. In addition, it is easy to fall into the trap of isolating employees with disabilities from others. Employees with disabilities should have opportunities to not only work with others on group projects, but, when appropriate, to take on leadership roles.

Federal employers should ensure that employees with disabilities are given full

consideration for inclusion in upward mobility programs and that they are aware of career counseling. Recognize that people with disabilities have career goals. Agency managers should sit down with employees and talk about goals. Identify role models and mentors for employees with disabilities or encourage them to do so. Every effort should be made to ensure that employees with disabilities, like others, are given the opportunity to reach their maximum potential.

## **Performance Evaluations**

Employees with disabilities will be held accountable for their work performance. Supervisors are responsible for communicating performance expectations to their employees and monitoring and appraising their work. When the individual with a disability begins a job, he or she should be given a clear description of all job functions, including those that are essential. All employees should be provided with encouragement and feedback regarding their work performance. It is important to ensure that when evaluating people with disabilities, aspects of their physical or mental disabilities are not held against them. They should be evaluated for their ability to do the job with any appropriate reasonable accommodations. For example, it would be inappropriate to negatively evaluate an individual who uses a wheelchair for not attending a meeting held in a physically inaccessible building.

If an employee with a disability cannot satisfactorily perform the essential functions of his or her job after a full and fair trial period and with appropriate reasonable accommodations, then his or her employment should be terminated. The same job-related performance criteria should be applied to employees with disabilities that is applied to others. If it becomes necessary to terminate the appointment of an employee with a disability, the agency's Human Resources or Personnel Office will help in making this decision and taking appropriate action.

## **Awards**

People with disabilities should have equal opportunity to receive incentive awards (special achievement/act or performance), quality step increases, and all other agency-sponsored or non-agency sponsored awards. Efforts should not be limited to special awards programs geared specifically to employees with disabilities.

## **Training**

Give employees with disabilities an equal chance to benefit from training and development opportunities. Ensure that classes are held in accessible facilities, and,

as necessary to provide effective communication, that materials are available in electronic format, large print, Braille, or audio cassette for persons with vision impairments, trained note-takers and qualified sign language interpreters or computer-assisted real-time transcription services are provided for persons who are deaf or hard of hearing, assistive listening systems and devices are provided for persons who are hard of hearing, and other appropriate reasonable accommodations are made. Any training that would provide growth opportunities to allow employees with disabilities to advance in their careers should be encouraged. Such training could include developmental detail assignments, lateral reassignments, and leadership training.

## **PROMOTING THE EMPLOYMENT OF PEOPLE WITH DISABILITIES**

Communication is the key to increasing organizational understanding and support for the employment of people with disabilities. The positive portrayal of employees with disabilities can greatly affect the public's and co-workers' perception of, and enhance the self-esteem of, such employees. There are a number of target groups to be reached: people with disabilities, advocacy and rehabilitation organizations, the agency workforce, students, and community groups.

Communicating messages or events such as planned initiatives, programs or exhibits, employee success stories, activities and accomplishments, and training and career development opportunities will enhance the employment and advancement of people with disabilities. One of the most effective media for some messages are internal memorandums or personal contact with the organization head, managers, supervisors and employees. Messages may also be integrated into existing media (e.g., an agency newsletter). Other communications media include:

- Agency publications and flyers
- Bulletin boards
- Press releases
- Film or slide-tape presentations
- Local newspapers
- Local radio and television stations
- Chambers of Commerce
- Trade and technical magazines
- Community organizations newsletters
- Accessible Internet or Intranet sites

An agency's public affairs office may be able to assist in preparing professional copy or in maximizing one's communication tools. Outside organizations such as the PCEPD, Veterans' Service Organizations (VSOs), State and VA Vocational Rehabilitation Centers, and local news media may also be able to help.

Experience has shown that programs and initiatives require dedicated and sustained support from departmental and agency leadership to achieve success. Thus, a clearly articulated commitment of agency leadership to achieving the goal of greater inclusion for adults with disabilities in the Federal workforce is critical to transforming such an aim into reality.

## **APPENDIX 1: FEDERAL RESOURCES**

- 1) **President's Committee on Employment of People with Disabilities (PCEPD)**  
1331 F Street, NW Phone: (V) (202) 376-6200  
Washington, DC 20004-1107 (TDD) (202) 376-6205

Website: <http://www.pcepd.gov>

EMAIL: [info@pcepd.gov](mailto:info@pcepd.gov)

- 2) **President's Committee Job Accommodation Network (JAN)**  
918 Chestnut Ridge Road, Suite 1 Phone: (V) (800) 526-7234  
West Virginia University - PO Box 6080 (TDD) (800) 232-9675  
Morgantown, WV 26506-6080

Website: <http://www.pcepd.gov> and click on JAN or go directly to JAN at  
<http://janweb.icdi.wvu.edu/english/homeus.htm>

- 3) **Equal Employment Opportunity Commission**  
1801 L Street, NW (Federal Sector Programs) Phone: (V) (800) 669-3362  
Washington, DC 20507 (TDD) (800) 800-3302

Website: <http://www.eeoc.gov>

For specific Federal employment questions, call the "ATTORNEY OF THE DAY" at  
(202) 663-4599.

- 4) **Department of Labor: Office of Federal Contractor Compliance Programs (OFCCP)**  
Department of Labor Phone: (V) (888) 376-3227  
Frances Perkins Building, (V) (202) 219-9475  
200 Constitution Avenue, NW (TDD) (202) 208-0452  
Washington, DC 20210

Website: <http://www.dol.gov/dol/esa>

- 5) **U.S. Office of Personnel Management** [for Federal employment information]  
1900 E Street, NW Phone: (V) (202) 606-2700  
Washington, DC 20415 (TDD) (912) 744-2299

Website: <http://www.opm.gov>.

## **APPENDIX 2: REFERENCES AND REGULATIONS**

### **I. General Medical Personnel Guidance**

#### **Law:**

- A. The Americans with Disabilities Act of 1990 - 42 U.S.C. §§ 12101 et seq.
- B. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701, et seq.; See also, 29 U.S.C. §§ 791(g), 794(d) (Incorporating standards of Americans with Disabilities Act into the Rehabilitation Act)
- C. The Family and Medical Leave Act of 1993, Pub. L. 103-3, Feb. 5, 1993, 107 Stat. 6, et seq. Title I of the Act applies to non-Federal employees and certain Federal employees and is administered by the Department of Labor. Title II of the Act applies to most Federal employees and is administered by the Office of Personnel Management.

#### **Regulation:**

- A. 5 CFR 339, Medical Qualification Determinations, March 8, 1989
- B. 29 CFR 1614, Equal Employment Opportunity Commission

NOTE: Part 1614 of the Federal sector Equal Employment Opportunity (EEO) complaint processing regulations replace part 1613, with the objective of promoting greater administrative fairness in the investigation and consideration of Federal sector EEO complaint by creating a process that is quicker and more efficient. Every Federal employee and applicant for Federal employment has the right to use the administrative EEO discrimination complaints process.

- C. For most Federal employees, 5 CFR Part 630, Subpart L, Family and Medical Leave.
- D. For certain Federal employees, including Postal Service employees, 29 CFR Part 825, The Family and Medical Leave Act of 1993.

#### **Information:**

- A. Equal Employment Opportunity Commission (EEOC)
  - 1. EEOC - *ADA Enforcement Guidance: Preemployment Disability Related Questions and Medical Examinations*, October 10, 1995

NOTE: This document provides the EEOC's position under the Americans with



Disabilities Act of 1990, on pre-employment disability-related questions and medical examinations.

2. EEOC - *EEOC Enforcement Guidance: The Americans with Disabilities Act and Psychiatric Disabilities*, March 25, 1997

NOTE: This guidance is designed to facilitate the full enforcement of the ADA with respect to individuals alleging employment discrimination based on psychiatric disabilities; respond to questions and concerns expressed by individuals with psychiatric disabilities regarding ADA; and answer questions posed by employers about how principles of ADA analysis apply in the context of psychiatric disabilities.

3. EEOC - *The Family and Medical Leave Act, The Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964*

NOTE: This fact sheet was prepared by the Equal Opportunity Commission's (EEOC) Office of Legal Counsel. It is intended to provide technical assistance on some common questions that have arisen about the Americans with Disabilities Act of 1990 (ADA) and Title VII of the Civil Rights Act of 1964 when the Family and Medical Leave Act of 1993 (FMLA) also applies.

4. EEOC - *Compliance Manual Section on the Definition of the Term "Disability"*
5. EEOC - *Interim Enforcement Guidance on the Application of the ADA to the Disability-based Distinctions in Employer Provided Health Insurance*
6. EEOC - *Questions and Answers About Disability and Service Retirement Plans Under the ADA*
7. EEOC - *Enforcement Guidance on Workers' Compensation and the ADA*
8. EEOC - *Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the ADA*
9. EEOC - *Enforcement Guidance on the Effect of Representations Made in Applications for Benefits on the Determination of Whether a Person is a "Qualified Individual with a Disability"*

B. U.S. Office of Personnel Management (OPM)

1. OPM - *Operating Manual - Qualification Standards for General Schedule Positions*, August 1994

2. OPM - *The Role of the Agency Medical Review Officer (MRO)*, March 1996<sup>6</sup>
  3. OPM - *Guide for Administering Written Employment Examinations to Persons with Disabilities*, December 1994
  4. OPM - *Developing and Conducting the Structured Situational Interview: A Practical Guide*, January 1994
  5. OPM - *Family-Friendly Leave Policies for Federal Employees: Employee Brochure*, November 1997
  6. OPM - *Federal Employee Entitlement Under the Family and Medical Leave Act of 1993*, December 1996
- C. Social Security Administration (SSA)
1. U.S. Department of Health and Human Services, Social Security Administration - *Disability Evaluation Under Social Security*, January 1995
- II. Special Appointing Authorities for Persons with Disabilities**
- A. 5 CFR 213.3102(II) - This hiring authority applies to readers, interpreters and other personal assistants for other employees with a severe disability(ies).
  - B. 5 CFR 213.3102(t) - This hiring authority applies to persons with mental retardation.
  - C. 5 CFR 213.3102(u) - This hiring authority applies to persons with severe physical disabilities.
  - D. 5 CFR 213.3202(k) - This hiring authority applies to persons who have recovered from a serious mental illness that resulted in a significant period of substantially disrupted employment within the previous two years.
  - E. 5 CFR 316.402(b)(5) - This hiring authority applies to 30 percent or more Disabled Veterans.
  - F. 5 CFR 315.604 - This hiring authority applies to disabled veterans enrolled in VA Training Programs.

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<sup>6</sup> See Section IV, Information (E, F) for HHS Drug Testing Medical Review Officer Source List and Manual for Federal Workplace Drug Testing Programs

**Information:**

- A. OPM - *People with Disabilities in the Federal Government - A Statistical Profile*, 1998
- B. OPM - *Guide for Administering Written Employment Examinations to Persons with Disabilities*, (PRDC-94-11), December 1994

**III. Disability Retirement (OPM)**

**Regulations:**

- A. Civil Service Retirement System (CSRS) - 5 CFR Part 831, Subpart L, CSRS - Disability Retirement, generally September 22, 1993
- B. Federal Employees Retirement System (FERS) - 5 CFR Part 844, FERS - Disability Retirement, generally February 1990

**Information:**

- A. CSRS/FERS - Documentation in Support of Disability Retirement Application, December, 1995 (consolidated form for CSRS and FERS)
- B. CSRS - OPM Pamphlet *Information for Disability Annuitants*, March, 1995
- C. CSRS - Application for Immediate Retirement, January, 1990
- D. FERS - OPM Pamphlet *Information for FERS Disability Annuitants*, March, 1996
- E. FERS - Application for Immediate Retirement, January, 1997

**Other Resources:**

- F. OPM *Life Events and Your Retirement and Insurance Benefits* (for employees), October 1997
- G. OPM *Work Related Injuries and Fatalities - - What You and Your Family Need to Know About Your Benefits*, October 1999

Note: briefly summarizes benefits (retirement, insurance, Thrift Savings Plan, Social Security, worker's compensation, etc, that may be applicable in a work related injury or fatality)

OPM's Retirement and Insurance Service also publishes *The CSRS and FERS Handbook for*

*Personnel and Payroll Offices*, a comprehensive guide to help agencies administer Federal retirement benefits. The handbook is available for purchase through the Government Printing Office; a CD-ROM version is available for purchase from OPM. In addition, the Handbook and many other useful resources are available for download on the Internet (Website: <http://www.opm.gov/asd.>).

#### **IV. Drug and Alcohol Testing<sup>7</sup>**

##### **Executive Order:**

- A. Drug-Free Federal Workplace, Executive Order 12564, 51 Federal Register 32,889 (1986)

NOTE: Executive Order 12564 requires that the Head of each Executive Agency establish a program to test for the use of illegal drugs by employees in safety or security-sensitive positions.

##### **Mandatory Guidelines:**

- A. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration - Mandatory Guidelines for Federal Workplace Drug Testing Programs, Federal Register Vol. 59, No. 110, June 9, 1994

NOTE: This establishes mandatory scientific and technical guidelines for Federal civilian drug testing programs pursuant to Executive Order 12564.

##### **Law:**

- A. Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 468, codified at 5 U.S.C. § 7301 note (1987)
- B. Drug Abuse Prevention, Treatment and Rehabilitation Act of 1972, 42 U.S.C. § 290ee-1 et seq., as amended by the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, 42 U.S.C. § 290dd et seq., Pub. L. 102-321, 106 Stat. 367 (1992) (codified at 42 U.S.C. § 201 note)
- C. Federal Employee Substance Abuse Education and Treatment Act of 1986, Pub. L. 99-570, Title VI, 100 Stat. 3207-157 (1986)

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<sup>7</sup> See Section VII, Information (A) for information regarding the role of OPM in the adjudication of medical objections to preference eligibles who test positive on a pre-employment drug screen.

NOTE: This Act requires agency programs to provide prevention, treatment, rehabilitation, and education services to Federal civilian employees with respect to drug and alcohol abuse.

**Regulation:**

- A. 5 CFR Part 792, Federal Employees' Health and Counseling Programs
- B. 49 CFR Part 382, Controlled Substances and Alcohol Use and Testing

NOTE: This regulation is issued by the Federal Highway Administration (FHWA) and contains the requirements applicable to positions requiring Commercial Drivers' License (CDL).

- C. 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs

NOTE: This regulation is issued by the U.S. Department of Transportation (DOT) and contains the technical procedures designed for use when testing is required pursuant to 49 CFR Part 382.

**Information:**

- A. National Institute on Drug Abuse - *Model Plan for a Comprehensive Drug-Free Workplace Program*, 1990
- B. U.S. Department of Transportation - *Alcohol & Drug Rules - An Overview*, February 1994
- C. U.S. Department of Health and Human Services - Substance Abuse and Mental Health Services Administration - *Basic Information on Breath Alcohol Testing for Implementation of the DOT Rules*, February 1995
- D. U.S. Department of Health and Human Services - An Overview of HHS Division of Workplace Programs (Federal Drug and Alcohol Program Oversight Responsibility)
- E. U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration - *Medical Review Officer Manual for Federal Workplace Drug Testing Programs*, 1997

NOTE: This manual applies to Federal agency drug testing programs that come under Executive Order 12564 and the Department of Health and Human Services (HHS) Mandatory Guidelines. The Department of Transportation (DOT) and Nuclear Regulatory Commission (NRC) programs have drug testing program requirements that may differ from those required by HHS. Therefore, Medical Review Officers (MROs)

must be aware of those differences in reviewing results for other Federally regulated programs.

- F. U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration - *Medical Review Officer (MRO) Source List*, March 3, 1996

## **V. Hearing Conservation**

### **Regulation:**

- A. 29 CFR 1910.95, Occupational Noise Exposure Standard, U.S. Department of Labor, Occupational Safety and Health Administration

### **Information:**

- A. U.S. Department of Labor, OSHA Guideline *Occupational Noise Exposure Compliance Assistance Guideline*, 1991
- B. U.S. Department of Labor, Occupational Safety and Health Administration, *Hearing Conservation*, (OSHA Publication 3074), 1995

NOTE: This program is initiated as part of a comprehensive Occupational Safety and Health Program when workers are exposed to excessive/high noise levels that could cause hearing loss.

## **VI. Infectious Diseases (HIV/AIDS, Hepatitis, Tuberculosis, etc.) Involving Employee Relations**

### **Regulation:**

- A. 29 CFR Part 1910.1030, Occupational Exposure to Bloodborne Pathogens, U.S. Department of Labor, Occupational Safety and Health Administration (OSHA)

NOTE: A bloodborne pathogen's protection program is initiated as part of a comprehensive Occupational Safety and Health Program when workers are potentially exposed to infectious blood or body fluids as part of their employment.

### **Information:**

- A. OPM - *HIV/AIDS Policy Guidelines*, August 30, 1995
- B. Social Security Administration - *A Guide to Social Security and SSI Disability Benefits for People with HIV Infection*, May 1997

- C. U.S. Public Health Service, Centers for Disease Control, Morbidity and Mortality Weekly Report, September 8, 1995/Vol. 44/No. RR-11, *Essential Components of a Tuberculosis Prevention and Control Program, Screening for Tuberculosis and Tuberculosis Infection in High-Risk Populations*
- D. U.S. Department of Labor, Occupational Disease - *Claims for Pulmonary Tuberculosis*, FECA Bulletin No. 95-20, June 21, 1995
- E. U.S. Public Health Service, Centers for Disease Control, Morbidity and Mortality Weekly Report, October 28, 1994/Vol. 43/No. RR-13 1994, *Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health Care Facilities*

## **VII. Medical Disqualifications**

**Policy:** By law, OPM must approve the medical disqualification of preference eligibles. By regulation, OPM requires agencies to give non-preference eligibles who are disqualified for medical reasons a higher level of review within the agency.

### **Law:**

- A. 5 U.S.C., Sections 3312 and 3318, Preference Eligibles

### **Regulation:**

- A. 5 CFR 339.306 Medical Qualification Determinations
- B. 5 CFR 351.702(d) Reduction in Force

### **Information:**

- A. Interagency Advisory Group, Memorandum for Directors of Personnel, dated March 14, 1997, "OPM Adjudication of Medical Disqualifications to Preference Eligibles"

NOTE: Reminds competitive service agencies that OPM must approve medical disqualifications of preference eligibles

- B. OPM - *Procedures Guide in Processing Medical Objections to Preference Eligibles*, March 1996
- C. OPM - *Typical Reasons for Not Sustaining Agency Medical Passover Requests*, March 1996

## **VIII. Medical Records**

### **Law:**

- A. Privacy Act of 1974, 5 U.S.C. 552a

### **Regulation:**

- A. 5 CFR Part 293, Subpart E, Employee Medical File System Records
- B. 5 CFR Part 297, Privacy Procedures for Personnel Records
- C. 29 CFR 1910.1020(d)(I) (1990) Access to Employee Exposure and Medical Records, U.S. Department of Labor, Occupational Safety and Health Administration
- D. 29 CFR 1904 (June 1986), A Brief Guide to Recordkeeping Requirements for Occupational Injuries and Illnesses, U.S. Department of Labor, Bureau of Labor Statistics
- E. 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient's Records (This regulation applies only to Employee Assistance Program (EAP) records)

### **Information:**

- A. OPM/GOVT-10 "Employee Medical File System Records," 57 Federal Register, 35,722, (August 10, 1992)
- B. OPM Medical Record Procedures, (covered in OPM's Operating Manual) *The Guide to Personnel Recordkeeping*
- C. U.S. Department of Labor, Occupational Safety and Health Administration, *Access to Medical and Exposure Records*, (OSHA Publication 3110), 1993

## **IX. Workers Compensation**

### **Law:**

- A. 5 U.S.C. 8101 et seq. The Federal Employees Compensation Act, as amended

### **Regulation:**

- A. 20 CFR Parts 1 to 25, Federal Employees Compensation Act
- B. 5 CFR Parts 353, Restoration to Duty from Uniform Service or Compensable Injury



**Information:**

- A. OPM - Pamphlet *Restoration Rights of Federal Employees Who Sustain Job-Related Injuries or Illnesses*, January 1992
- B. U.S. Department of Labor - *Injury Compensation for Federal Employees* (A Handbook for Employing Agency Personnel), (Publication CA-810), February 1994
- C. U.S. Department of Labor, *Questions and Answers About the Federal Employees' Compensation Act*, (Publication CA-550), September 1988
- D. U.S. Department of Labor, *Resource Book - Training for Federal Employing Agency Compensation Specialists*, 1994

**X. Pregnancy Related Issues**

**Law:**

- A. Pregnancy Discrimination Act, P.L. 95-555, October 31, 1978, 92 Stat. 2076, 42 U.S.C. § 2000e(k)

**Regulation:**

- A. 29 CFR § 1604.10(b), See also, 29 CFR Pt. 1604 App. (Questions and Answers on the Pregnancy Discrimination Act)

**XI. Respiratory Protection Program**

**Regulation:**

- A. 29 CFR 1910.134, Respiratory Protection, U.S. Department of Labor, Occupational Safety and Health Administration (OSHA)

NOTE: This program is initiated as part of a comprehensive Occupational Safety and Health Program when workers must wear respirators to protect themselves from actual or potential airborne hazards.

- B. 29 CFR Part 1910.1001, Occupational Exposure to Asbestos, June 29, 1995, U.S. Department of Labor, Occupational Safety and Health Administration (OSHA)
- C. 29 CFR Part 1910.1200, Hazard Communication, March 11, 1994, U.S. Department of Labor, Occupational Safety and Health Administration (OSHA)

## **XII. Safety and Occupational Health Programs**

### **Law:**

- A. Occupational Safety and Health Act of 1970, 84 Stat. 1590, Public Law 91-596, Section 19, Federal Agency Safety Programs and Responsibilities, December 29, 1970

NOTE: This act is to assure safe and healthful working conditions for working men and women by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; and by providing for research, information, education and training in the field of occupational safety and health.

### **Federal Regulation:**

- A. 29 CFR 1910.151, Medical Services, U.S. Department of Labor, Occupational Safety and Health Administration
- B. 29 CFR 1910.1450, Occupational Exposure to Hazardous Chemicals in Laboratories, U.S. Department of Labor, Occupational Safety and Health Administration
- C. 29 CFR 1910.1200, Hazardous Communication, U.S. Department of Labor, Occupational Safety and Health Administration
- D. 5 CFR Part 339.205, Medical Evaluation Programs, Medical Surveillance Program

## **XIII. Veterans and the Civil Service**

### **Information:**

- A. OPM - *VetGuide, Federal Employment Policy Handbook: Veterans and the Civil Service*, December 1998

NOTE: VetGuide explains the special rights and privileges that veterans enjoy in Federal civil service employment. The guide conveniently summarizes in one place material from many laws and regulations that affect the employment of veterans. The guide will help Federal personnel specialist ensure that veterans receive the advantages they have earned.

## **XIV. Violence in the Workplace**

### **Information:**

- A. OPM - *Dealing with Workplace Violence: A Guide for Agency Planners*, February 1998

- B. U.S. Department of Labor, Occupational Safety and Health Administration - *Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers*, (OSHA Publication 3148), 1996
- C. U.S. Department of Justice, United States Marshals Service - *Security in the Workplace: Improving the Safety of Federal Employees*, (USMS Pub. No.61) September 1995
- D. U.S. Department of Justice - *Combating Workplace Violence: Guidelines for Employers and Law Enforcement*, International Association of Chiefs of Police (publication funded by Office of Justice Programs, Bureau of Justice Assistance)
- E. U.S. Department of Justice, National Institute of Justice - *Understanding and Preventing Violence*, February 1994
- F. U.S. Department of Justice, National Institute of Justice - *Psychoactive Substances and Violence*, February 1994
- G. U.S. Department of Justice, National Institute of Justice - *The Cycle of Violence*, September 1992
- H. ADA Information Brief, Volume 1, Number 4, *Violence and Workers with Psychiatric Disabilities: Myths and Facts*<sup>8</sup>
- I. Worldwide Web Information: *Partnership Against Violence Network (PAVNET)*. The Departments of Justice, Agriculture, Education, Housing and Urban Development, and Labor. A database of programs dealing with violence. Access through the Web at: **[www.pavnet.org](http://www.pavnet.org)**.

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